

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

ALBERT L. GRAY, Administrator, et al	:	
Plaintiffs	:	
	:	
vs.	:	C.A. No. 04-312L
	:	
JEFFREY DERDERIAN, et al	:	
Defendants	:	
	:	
ESTATE OF JUDE B. HENAULT, et al	:	
Plaintiffs	:	
	:	
vs.	:	C.A. No. 03-483L
	:	
AMERICAN FOAM CORPORATION, et al:	:	
Defendants	:	

REPORT AND RECOMMENDATION
OF SPECIAL MASTER WILLIAM A. POORE
RELATING TO SETTLEMENT OF MINORS' CLAIMS

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**REPORT AND RECOMMENDATION
OF SPECIAL MASTER WILLIAM A. POORE
RELATING TO SETTLEMENT OF MINORS' CLAIMS**

Now comes William A. Poore, Esq., in his capacity as court-appointed Special Master in the above-entitled matters, and files this report and recommendation concerning the proposed settlement to minor plaintiffs in all Station Fire cases pending before the United States District Court for the District of Rhode Island.

I.
BACKGROUND

Pursuant to an Order of this Honorable Court the undersigned was appointed Special Master to examine and review all proposed settlements on behalf of minor claimants in the above-captioned matters. See Exhibit A, Order dated June 24, 2009. Previously, this Honorable Court has accepted and approved the Plan of Distribution formulated by Special Master Francis McGovern and found it to be fair and equitable as to the minor claimants. See Exhibit B, McGovern Plan of Distribution; see also Exhibit C, Order dated March 5, 2009. Thereafter, in

furtherance of the McGovern Plan of Distribution, Jeffrey Dahl, was appointed as a Neutral Verification Expert to analyze each claim and establish an accurate point value based upon the number of claimants and available settlement funds. Mr. Dahl verified each medical expense, insured the accuracy of each submission and made necessary adjustments,¹ and the precise amounts to be distributed to each claimant, including minors, has been determined by Mr. Dahl.

II. STANDARD OF REVIEW

This Honorable Court has set forth the responsibility and guidelines of the Special Master in its Order of Reference dated June 24, 2009. Therein, the Court noted:

As guideposts for his report, the Court directs Special Master Poore to Local Rule of Civil Procedure 39.4 (c) (1) and (6). Those sections provide that no settlement can be approved by this Court without: (1) a report from the guardian, guardian ad litem or next friend explaining why the proposed settlement is in the best interest of the minor or incompetent and should be approved; and (6) in personal injury cases, a complete description of the injuries sustained, whether any of them are permanent, copies of all relevant medical reports, and an itemized statement of all past and future medical expenses that may have been or are likely to be incurred.

See Exhibit A.

Any review and evaluation on behalf of the minor children must, by necessity, include the breadth of settlements for all claimants because, as this Honorable Court has noted “each claim is drawn from the same finite pool of funds, each claimant’s share affects the share of all other claimants.” See Exhibit D, Memorandum of Clarification With Respect to: Order of Reference to Special Master William Poore, Esq. dated August 14, 2009. Accordingly, this examination encompasses not only an evaluation of each specific minor’s claim, but also includes an assessment of all direct and derivative adult claims.

¹ For example, value was assigned to those claimants who treated at Shriner’s medical facility where medical treatment and care was provided without charge.

III. PROCESS OF REVIEW

This analysis and examination is conducted pursuant to the guidelines contained in Local Rule of Civil Procedure 39.4(c)(1) and (6) in order to determine whether the proposed settlements are in the best interest of each minor child and whether their individual settlement awards comport with the injury or loss sustained. Both the McGovern Plan of Distribution (which has been sanctioned by this Honorable Court), as well as the Dahl point valuation assignments have been reviewed to ensure that the actual applications of these formulas meet acceptable notions of equity, fairness and properly relate to traditional litigation values.

In marshalling the information necessary to reach such conclusions and make reasonable determinations, the following steps were undertaken and accomplished:

- meetings were conducted with attorneys representing the plaintiffs, including members of Plaintiffs' Steering Committee, obtaining information, data and insight regarding all aspects of the Station Night Club fire claims, including but not limited to: theories of liability; defenses; potential insolvency issues pertaining to particular defendants; assessment of general claims, as well as specific claims; accumulation of costs incurred by the Plaintiffs' Steering Committee in the prosecution of the claims; and proposals relating to provisions for securing settlement funds;
- drafting and development of formatted distribution settlement sheets (see Exhibit E) through the Plaintiffs' Steering Committee which formed the basis for individual case review and facilitated the comparison of settlement within and without the various classes of beneficiaries. This process involved the collection, amendment and organization of over 306 separate settlement sheets, requiring review of thousands of data entries, and ultimately resulted in over 350 pages of exhibits presented for the Court's review;
- review of pleadings and case documents to assist in the examination of liability issues and ultimately the appropriateness of settlement values as they pertain to minors;
- attendance at meetings and conferences relating to the security of settlement funds in general, as well as those portions dedicated to the resolution of minors' claims. Trust instruments, bonding and other security provisions were discussed, examined and considered;

- each parent and/or guardian of every minor plaintiff was individually contacted by correspondence (see Exhibit F) and invited to discuss any aspect of the case, the proposed settlement, or issues which may relate specifically to each minor. In furtherance of these invitations, numerous conferences were held with those parents and/or guardians who responded, which included telephonic conferences as well as personal meetings and discussions. All discussions and comments have been documented and considered in reaching the ultimate recommendation contained within this report; and finally,
- individual distributions sheets for each and every beneficiary in this action were received, collated, organized by class and examined to ensure accuracy, consistency and to determine relative claim values. See Exhibit E.

IV. SCOPE AND CLASSIFICATION OF CLAIMS

The proposed final settlement and distribution of funds applies to all claimants for death and personal injuries suffered as a result of the fire at the Station Night Club on February 20, 2003. Additionally, the settlement includes all derivative claims of spouses and children. Defendants collectively have agreed to fund this comprehensive settlement in the total amount of \$176,193,718.32. This amount has been apportioned in accordance with the McGovern Plan of Distribution, as well as the assignment of point values by Jeffrey Dahl, the Neutral Verification Expert.² For purposes of this report, and in order to determine relative values, all claims have been segregated, organized and classified into the following categories:³

² Mr. Dahl has assigned a total number of 14,688 points for resolution of personal injury claims, and 13,021 points for the resolution of death claims. The total points to all claimants is 27,709. When divided by the available fund balance of \$176,193,718.32, the proposed individual point value is \$6,358.72. This number is the factor employed in calculating individual settlement values.

³ All claims are represented by the actual distribution settlement sheet filed by each plaintiff's attorney. Since the identity of any particular claimant is irrelevant to this analysis, and for privacy considerations, the names of the claimants and beneficiaries have been redacted.

DEATH CLAIMS

1. Death claims with surviving minor children receiving more than \$10,000.00⁴
2. Death claims with children over the age of 18 receiving more than \$10,000.00
3. Death claims with no children

PERSONAL INJURY CLAIMS

1. Personal injury claims with minor children receiving more than \$10,000.00
2. Personal injury claims with minor children receiving less than \$10,000.00
3. Personal injury claims with children over the age of 18
4. Personal injury claims with no children

Each of these classifications will be addressed and reviewed *seriatim*.

A.

DEATH CLAIMS

(Exhibit G, Case Nos. 1 – 111)

The awards and percentages identified within the following categories represent proposed payments to the beneficiaries, both minor children and adult children, of all death claimants. These values are determined by the application of the McGovern Plan of Distribution, in combination with Mr. Dahl's assigned point allocation. These values do not include supplemental distributions which children may receive from the estates of their parent(s).⁵ Overall, there are 111 death claim settlement sheets giving rise to the assignment of 13,021 points. The total amount dedicated to all death claims is \$82,796,893.12. This is approximately 47% of the total settlement.

⁴ As to minors' claims having a value of \$10,000.00 or more, there is a total of 58; 41 minors are receiving benefits from death claims and 17 from personal injury claims.

⁵ Under Rhode Island General Laws, § 10-7-1, *et seq.*, surviving children are entitled to receive designated statutory percentage of the decedent's estate, and such funds will be in addition to those nominated herein. It is assumed that children in foreign jurisdictions will have their entitlements and their ultimate settlement amounts will be determined by probate or other court of competent jurisdiction.

1.
DEATH CLAIMS WITH SURVIVING MINOR CHILDREN
RECEIVING MORE THAN \$10,000.00

An examination of this class as a whole reveals that there were 30 decedents with a total of 41 surviving minor children as of February 20, 2003. In their entirety, these 30 death claims have a total gross settlement value of \$31,491,560.80. See Exhibit G, Case Nos. 1 - 30.

As of the date of this report, there are 41 minor children who stand to receive financial payments derivative from the death of one or both of their parents within this class. The average gross recovery per child is \$202,000.00. The total proposed gross settlement value for these 41 children is \$8,285,412.16, which constitutes approximately a 26% award from the decedents' gross settlement of \$31,491,560.80.

Under the McGovern Plan of Distribution, each surviving minor child is awarded a base of 20 points, plus 1 point for each year that child was below the age of 18 as of February 20, 2003. A more specific review of these claims indicates that consistent with the McGovern Plan of Distribution, each of the 41 minor children was assigned a point value ranging from a low of 27 points to a high of 38 points (child *in utero*) with a predominant grouping between 28 and 32 points.⁶ As each point is assigned a cash value according to the Dahl formula (\$6,358.72), the following chart reflects the assignment of values based upon age, points, and the McGovern baseline of 20.

<u>Points</u>	<u>Value</u>	<u># of Minors in point category</u>	<u>Total per category</u>
27	\$171,685.44	2	\$ 343,370.88
28	\$178,044.16	8	\$1,424,353.28
29	\$184,402.88	5	\$ 922,014.40
30	\$190,761.60	3	\$ 572,284.80
31	\$197,120.32	5	\$ 985,601.60
32	\$203,479.04	4	\$ 813,916.16

⁶ The older grouping of minors at the time of the tragedy (those receiving 27 points or less) have now reached the age of majority.

33	\$209,837.76	2	\$ 419,675.52
34	\$216,196.48	1	\$ 216,196.48
35	\$222,555.20	2	\$ 445,110.40
36	\$228,913.92	1	\$ 228,913.92
37	\$235,272.64	3	\$ 705,817.92
38	\$241,631.36	5	\$1,208,156.80

It appears that the McGovern Plan of Distribution, in its actual application, is eminently fair and treats each of the children in a remarkably consistent fashion. Given the base award of 20 points, the age variable alone does not create discrepancies which would render the settlements either inconsistent or unjust. In fact, the slight percentage variations based upon age differential results in a rationally apportioned distribution.

Each of the minor's proposed settlements has been reviewed within this classification and deductions have been verified for attorneys' fees (see infra, Section VII "Attorneys' Fees"), as well as costs assessed against their assigned amounts. See infra, Section VI "Costs". Furthermore, the specific basis for every cost, that is, the underlying amount and purpose for the expenditures, has been reviewed and is provided for the Court's consideration.⁷

Finally, as settlement values in this classification are the systematic product of the consistent application of an objective formula, a review of each settlement sheet would be redundant and unnecessary.⁸ However, in order to demonstrate the actual application of the formula upon typical cases, I am submitting two exemplars for the Court's review. These two claims reflect a case on the lower end of the settlement scale and founded upon an award of 27 points to the minor child (see Exhibit G, Case No. 6); and a second exemplar reflecting a settlement based upon a higher point value of 38 points. See Exhibit G, Case No. 4.

⁷ Supporting documentation for Individual Case Costs has been included only for minors who stand to receive more than \$10,000.00 in settlement funds.

⁸ A distribution settlement sheet for each child's consortium claim is appended hereto as part of the exhibits and is incorporated herein for the Court's review.

The first exemplar, Case No. 6, is that of a young child who, at the time of the tragedy, was 11 years of age. The child is now 17 years old. The child's parent passed away as a result of the Station Night Club fire and the estate has been awarded 102 points, which correlates to a total gross recovery of \$648,589.44. There was no spousal claim filed. Deducted from the parent's estate award are attorneys' fees in the amount of \$215,980.28 (1/3 of gross recovery); "Estimated Overall Case Costs" of \$1,288.39⁹ (see infra Section VI "Costs", page 41); "Estimated PSC Case Costs" in the amount of \$5,615.57¹⁰ (see infra Section VI "Costs", page 40); and "Individual Case Costs" in the amount of \$5,094.39 (see infra Section VI "Costs", page 42), of which in this particular case a substantial portion were directed to probate fees. This parent/claimant's net settlement, before liens, is therefore in the amount of \$420,610.81, and assuming the Crime Victims Compensation Fund Lien is not comprised, the parent/estate's net recovery is \$395,610.81.

The child of this decedent received an assignment of 27 points, or a gross award of \$171,685.44, and had deductions for attorneys' fees in the amount of \$57,171.25 (1/3 of gross recovery); a proportionate share (0.0974%) of the Estimated Overall Case Costs in the amount of \$341.04; and a proportionate share (0.1025%) of the Estimated PSC Case Costs in the amount of \$1,486.47. This child will therefore receive a net recovery of \$112,686.67. This child also has a sibling who, due to her younger age at the time of the tragedy (9 years old), was awarded 30 points, for a gross award of \$190,761.60. After similar deductions for attorneys' fees and costs, this child's net recovery is \$125,207.41. The total gross recovery for the parent and 2 minor

⁹ This figure is derived by first determining the percentage of claimant's recovery (in this case \$648,589.00) as it relates to the global, Total Settlement of \$176,193,718.32. This percentage (in this case 0.3681%) is applied against the Estimated Overall Case Costs of \$350,000.00, resulting in the \$1,288.39 assessment.

¹⁰ This figure is derived by first determining the percentage of claimant's recovery (in this case \$648,589.00) as it relates to the PSC Plaintiffs' Portion of Total Settlement of \$167,472,737.00. This percentage (in this case 0.03873%) is applied against the Estimated PSC Case Costs of \$1,450,000.00, resulting in the \$5,615.57 assessment.

children in this case is \$1,011,036.48. Of this amount, 64% was assigned to the parent's estate, 17% was assigned to the subject minor and 19% to the younger sibling.

The second exemplar, Case No. 4, is that of a young child who was *in utero* at the time of the tragedy. The child is now 6 years old. The child's parent passed away as a result of the Station Night Club fire and the estate has been awarded 105.5 points, which correlates to a total gross recovery of \$670,844.96. There was no spousal claim filed. Deducted from the parent's estate award are attorneys' fees in the amount of \$223,391.37 (1/3 of gross recovery); Estimated Overall Case Costs of \$1,332.60¹¹ (see *infra* Section VI "Costs", page 41); Estimated PSC Case Costs in the amount of \$5,808.26¹² (see *infra* Section VI "Costs", page 40); and Individual Case Costs in the amount of \$3,260.51 (see *infra* Section VI "Costs", page 42), of which a substantial portion were directed to probate fees. This claimant/estate's net settlement is therefore in the amount of \$437,052.22. The child of this decedent received an assignment of 38 points, or a gross award of \$241,631.36, and had deductions for attorneys' fees in the amount of \$80,463.24 (1/3 of gross recovery); a proportionate share (0.1371%) of the Estimated Overall Case Costs in the amount of \$479.99; and a proportionate share (0.1443%) of the Estimated PSC Case Costs in the amount of \$2,092.07. This child will therefore receive a net recovery of \$158,596.05. The total gross recovery for the parent and minor child is in the amount of \$912,476.32. Of this amount, 74% was assigned to the estate and 26% was assigned to the subject minor.

In conclusion, these percentages comport with the minors status as surviving children and are consistent with percentages which would form the basis of either settlement or jury awards in

¹¹ This figure is derived by first determining the percentage of claimant's recovery (in this case \$670,844.96) as it relates to the global, Total Settlement of \$176,193,718.32. This percentage (in this case 0.3807%) is applied against the Estimated Overall Case Costs of \$350,000.00, resulting in the \$1,332.60 assessment.

¹² This figure is derived by first determining the percentage of claimant's recovery (in this case \$670,844.96) as it relates to the PSC Plaintiffs' Portion of Total Settlement of \$167,472,737.00. This percentage (in this case 0.4006%) is applied against the Estimated PSC Case Costs of \$1,450,000.00, resulting in the \$5,808.26 assessment.

similar consortium claims. These percentages therefore are appropriate and consistent with historically comparable derivative awards.

2.
DEATH CLAIMS WITH SURVIVING CHILDREN OVER THE AGE OF 18
RECEIVING MORE THAN \$10,000.00

An examination of this classification reveals that there are 20 decedents with a total of 30 adult children. Of these 20 decedents, 10 claimants also have 12 adult children within receiving benefits. In their entirety, these 20 death claims have a total gross settlement value of \$21,330,326.24. See Exhibit G, Case Nos. 31 - 50.

The 30 adult children in this category range in age from 18 to 24. These 30 adult children have been assigned a total of 735 points, or a total gross settlement value of \$4,673,659.20. The average gross recovery per child in this category is \$155,700.00. The differential of points awarded range from a low of 21 points to a high of 27 points in this category, with a predominant grouping at 26 points. As in the case of minor children, the following chart reflects the assignment of value based upon age, points and McGovern's baseline award of 21.

<u>Points</u>	<u>Value</u>	<u># of Minors in point category</u>	<u>Total per category</u>
21	\$133,533.12	3	\$ 400,599.36
22	\$139,891.84	2	\$ 279,793.68
23	\$146,250.56	6	\$ 877,503.36
24	\$152,609.28	2	\$ 305,218.56
25	\$158,968.00	3	\$ 476,904.00
26	\$165,326.72	11	\$1,818,593.92
27	\$171,685.44	3	\$ 515,056.32

Here, although each of these children was a minor at the time of the tragedy, each has since reached the age of majority and therefore this class constitutes a more defined chronological grouping. The limited age variance results in even more defined settlement

differentials in awards. Each of these children's proposed settlement have been likewise reviewed within this classification and deductions have been verified for attorneys' fees, as well as costs assessed against their assigned amounts. Further, in each case, the specific basis for costs, that is the underlying amount and purpose for the expenditures, has been reviewed.

3.
DEATH CLAIMS WITH NO CHILDREN

There are 61 death claims where there are no children. These 61 death claims have a total gross settlement value of \$42,641,576.32. See Exhibit G, Case Nos. 51 – 111.

B.
PERSONAL INJURY CLAIMS
(Exhibit H, Case Nos. 112 - 329)

The awards and percentages identified within the following categories represent proposed payments to the beneficiaries, both minor and adult children, of all personal injury claimants. The formulation of settlement values within this category is determined by medical expenses with points being awarded based upon the total medical costs incurred by the claimant. Implicit in this methodology is the assumption that once properly adjusted and employed as a common denominator, medical costs relate in a meaningful way to the degree or magnitude of injury, and ultimately case value. This methodology has been accepted by this Honorable Court and found to be fair, reasonable and just.

The children of personal injury claimants receive an amount calculated by a different technique than that provided in death cases. Here, unlike the application of the death distribution, the children receive 5% of the net amount assigned to the injured parent(s). Accordingly, there are no direct costs or reductions to these children's claims. Derivatively, however, these minors are impacted by the costs and expenses borne by their injured parent(s).

Therefore, in each of these cases the costs, expenses and deductions from the parent(s)' claim have been reviewed and considered in order to ensure that the net amount to each child is appropriate, accurate and fair.

Overall, there are 219 personal injury settlement sheets giving rise to the assignment of 14,688 points. The total amount dedicated to the resolution of all personal injury claims is \$93,396,879.36. This is approximately 53% of the total settlement.

1.
PERSONAL INJURY CLAIMS WITH MINOR CHILDREN
RECEIVING MORE THAN \$10,000.00

Within this category, there are 11 claimants who have a total of 17 minor children who stand to receive more than \$10,000.00; 5 of these claimants also have 5 adult children receiving benefits. See Exhibit H, Case Nos. 112 - 122.

These 11 claimants have a total gross settlement value of \$27,050,084.00. Of that amount, the children's collective 5% share amounts to \$1,552,943.00. As to the 17 minor children, the highest award within this category is \$181,353.00, and the lowest award is \$14,855.00, resulting in an average of \$91,349.00. Frankly, averages within this classification are misleading, as values are significantly impacted by 4 particular cases: Case No. 115; Case No. 118; Case No. 119; and Case No. 120. In these particular cases, the burn injuries and damages sustained by these claimants were significant and devastating, causing medical bills all above a \$1,200,000.00 threshold. Due to the gravity of injuries these 4 claimants sustained, comparisons within this group is imperfect. Absent these 4 claims, the remaining 13 minor children receive settlements that have value differentials between \$14,855.00 and \$55,500.00.

The McGovern Plan of Distribution as it relates to this class of recipients is fair and wholly consistent in its application. Assigning a percentage of net value to the children ensures

that the gravity of the injury to the child's parent(s) is commensurate with increased settlement allocation to the child. In its application, it is inherently fair and just. Because the children's 5% allocation is derivative of the parent(s)' net claims, the settlement analysis must be directed at the primary, parent(s)' claim.

Each of the parent(s)' proposed settlements have been reviewed within this classification and deductions have been verified for attorneys' fees, as well as costs assessed the assigned amounts. Further, in each of the primary claims, the parent(s)' claims, which provide the net basis for the children's assigned allocation, the specific basis for the costs, that is, the underlying amount and purpose for the expenditures, has been reviewed.

Finally, although the children's shares within this category are the result of rote calculations, the impact of the actual application of this formula upon this category is apparent in two exemplars submitted for the Court's review. The two claims submitted reflect a case on the lower end of the settlement scale (see Exhibit H, Case No. 113); and a second exemplar reflecting a case on the higher end of the settlement scale. See Exhibit H, Case No. 114.

The first exemplar, Case No. 113, is that of claimant who suffered personal injuries and sustained medical expenses in the amount of \$149,090.08, resulting in an award of 74 points. This correlates to a total gross recovery of \$470,545.28. There was no spousal claim filed. Deducted from the injured parent's award are attorneys' fees in the amount of \$156,691.58 (1/3 of gross recovery); a proportionate share (0.2671%) of the Estimated Overall Case Costs of \$934.71; a proportionate share (0.2810%) of the Estimated PSC Case Costs in the amount of \$4,074.04; and Individual Case Costs in the amount of \$1,052.52. This claimant's net settlement, before liens, is therefore in the amount of \$307,792.43, and assuming the negotiated Crime Victims Compensation Fund liens are not comprised, this claimant's net recovery is

\$297,111.51. Consistent with McGovern Plan of Distribution, the minor child of this personal injury claimant will receive 5% of the parent's net, or a distribution of \$14,855.58. There are no direct costs or reductions to this child's claim.

The second exemplar, Case No. 114, is that of claimant who suffered personal injuries and sustained medical expenses in the amount of \$578,357.79, resulting in an award of 289 points. This correlates to a total gross recovery of \$1,837,670.08. There was no spousal claim filed. Deducted from the injured parent's award are attorneys' fees in the amount of \$611,944.14 (1/3 of gross recovery); a proportionate share (1.0430%) of the Estimated Overall Case Costs of \$3,650.44; a proportionate share (1.0973%) of the Estimated PSC Case Costs in the amount of \$15,910.78; and Individual Case Costs in the amount of \$3,116.19. This claimant's net settlement, before liens, is therefore in the amount of \$1,203,048.54, and assuming the Crime Victims Compensation Fund Lien and other negotiated liens are not comprised, this claimant's net recovery is \$1,110,504.20. Consistent with McGovern Plan of Distribution, the minor child of this personal injury claimant will receive 5% of the parent's net, or a distribution of \$55,525.21. This claimant also has 1 adult child who will also receive 5% of the parent's net, or \$55,525.51. There are no direct costs or reductions to the children's claims.

2.
PERSONAL INJURY CLAIMS WITH MINOR CHILDREN
RECEIVING LESS THAN \$10,000.00

This class comprises the largest group of minor beneficiaries. There are 75 minor children whose assignment settlement values are less than \$10,000.00. These children derive their settlements from 47 injured parent(s). Of these 47 claimants, 8 also have 11 adult children receiving less than \$10,000.00. In their entirety, these 47 personal injury claims have a total gross settlement value of \$3,163,463.20. See Exhibit H, Case Nos. 123 - 169.

This grouping is predominantly of the lower level of settlement, driven by the more moderate level of medical expenses of their parent(s). The total gross payment to the 75 minor children is \$166,463.18. Of the 75 minors, 63, or 84%, involve settlements of \$3,000.00 or less.¹³ Due to the fact that these settlements mirror the methodology employed in the other category of personal injury cases (minors receiving more than \$10,000.00) no exemplars are submitted. The distributions within this classification are fair and equitable and consistently applied. The matrix of values, in its application, treats all minor claimants in an equitable fashion. Differences in awards are predicated on the parent(s) degree of injury which is a meaningful, objective and rational standard.

3. PERSONAL INJURY CLAIMS WITH CHILDREN OVER THE AGE OF 18

There are 27 adult children who comprise this category. This class represents children who, although minors at the time of the tragedy, are now adults. Their settlements emanate from the claims of 23 injured parent(s), 13 of which also have minor children receiving benefits. See Exhibit H, Case Nos. 170 - 192.

In their entirety, these 23 personal injury claims have a total gross settlement value of \$23,985,091.84. Of the 27 adult children, 8 are receiving amounts more than \$10,000.00. These awards span from a low of \$16,011.06 to a high of \$383,909.52. With respect to the 19 adult children receiving less than \$10,000.00, these awards range from a low of \$99.29 to a high of \$9,141.64.

¹³ While every effort should be made to protect distributions of all minor children, it is respectfully submitted that actual disbursements within this category should be effected consistent with the statute, requiring the execution of a release by a parent or natural guardian. Any additional review would be counter-productive to the children's best interest as it would unnecessarily burden distributions which are already somewhat limited in value. See Rhode Island General Laws § 33-15.1-1; see also Sabourin v. LBC, Inc., 731 F.Supp. 1151, 1155 (D.R.I.1990), citing Julian v. Zayre Corporation, 388 A.2d 813, 815 (1978).

4.
PERSONAL INJURY CLAIMS WITH NO CHILDREN

There are 137 personal injury claims where there are no children. These 137 personal injury claims have a total gross settlement value of \$48,409,035.36. See Exhibit H, Case Nos. 193 - 329.

V.
LIABILITY

Pending before this Honorable Court is a global proposal for settlement in the amount of \$176,193,718.32. An examination of the liability considerations in this case is unique as the settlement was driven, in large part, by two significant factors. First, the enormity of this loss and its potential judgment value against any individual defendant who reached the verdict stage of litigation; and secondly, the impetus, motivation and encouragement created by Rhode Island's Uniform Contribution Among Tortfeasor Act, as amended (R.I.G.L. § 10-6-1, et seq.) for all defendants to contribute and resolve these various claims. The potential value of any individual claim, the enormity of the total loss and the inability of any particular defendant to withstand even the remote possibility of an adverse judgment provided adequate incentives which resulted in the current settlement. Traditional common law defenses which would tend to preclude recovery against many of the defendants, although proffered, were never tested through trial because the risk to any one defendant was too great.

There are 17 groupings of defendants who have agreed to contribute to the total settlement sum of \$176,193,718.32 as full and final resolution of any and all claims resulting from the fire that occurred at the Station Night Club on February 20, 2003. The respective contributions of the settling defendants are set forth as follows:

1. Brian Butler; LIN Television Corporation; \$ 30,000,000.00
TVL Broadcasting of Rhode Island, LLC;
LIN T.V. Corp.; TVL Broadcasting, Inc.;
STC Broadcasting, Inc.
2. WHJY, Inc.; Capstar Radio Operating Company; \$ 22,000,000.00
Clear Channel Broadcasting, Inc.
3. American Foam Corp.; Jo-Ann DerManouelian \$ 6,300,000.00
Everett Marabian and Paul Plourde in their
capacity as Executors of the Estate of
Aram DerManouelian; Barry Warner
4. General Foam Corporation; GFC Foam, LLC; \$ 11,250,000.00
PMC, Inc.; PMC Global, Inc.
- Foamex LP; Foamex International Inc.; \$ -0-
FMXI, Inc.; FMXI, LLC
- Leggett & Platt, Incorporated and \$ 18,200,000.00
L&P Financial Services Co.
- Wm. T. Burnett & Co., Incorporated; Wm. T. \$ 300,000.00
Burnett Management Inc.; Wm. T. Burnett & Co.;
Wm. T. Burnett Operating, LLP
- FFNC, Inc. \$ 250,000.00
5. Triton Realty Limited Partnership; \$ 5,000,000.00
Triton Realty, Inc.; Raymond J. Villanova;
Framingham-150 FR Realty Limited
Partnership; Seekonk-226 Limited Partnership;
Frances A. Villanova
6. Town of West Warwick; \$ 10,000,000.00
Denis Larocque; Stephen Murray;
Anthony Bettencourt; Malcolm Moore
- State of Rhode Island and Irving Owens \$ 10,000,000.00
7. Anheuser Busch, Incorporated; \$ 5,000,000.00
Anheuser-Busch Companies, Incorporated;
Busch Entertainment Corporation;
Busch Media Group, Inc.
- McLaughlin & Moran, Inc. \$ 16,000,000.00

8.	High-Tech Special Effects, Inc.; Luna Tech, Inc.; Luna Tech Pyrotechnik GmbH; Luna Tech Euro GmbH	\$ 6,000,000.00
9.	Joseph Lafontaine d/b/a New England Custom Alarm	\$ 1,000,000.00
10.	Jack Russell; Jack Russell Touring, Inc.; Paul Woolnough; Manic Music Management, Inc.; Knight Records, Inc.; Daniel Biechele; Mark Kendall; David Filice; Eric Powers	\$ 1,000,000.00
11.	Polar Industries, Inc.; Celotex Corp. and its successors in interest; Knight-Celotex Lisbon Falls LLC, Knight-Celotex LLC; Knight Industries, Inc.; Knight Industries, LLC and Knight Industries I, LLC; Home Depot U.S.A. Inc. and Home Depot	\$ 5,000,000.00
12.	Jeffrey Derderian; Michael Derderian; DERCO LLC	\$ 813,218.32
13.	Sealed Air Corporation and Sealed Air Corporation (US)	\$ 25,000,000.00
14.	ABC Bus, Inc. d/b/a ABC Bus Leasing, Inc. and Superstar Services LLC	\$ 500,000.00
15.	JBL Incorporated d/b/a James B. Lansing Sound, Incorporated d/b/a JBL Professional	\$ 815,000.00
16.	Howard Julian; HJJ Productions Inc.; La Villa Strangiato Inc.	\$ 3,000.00
17.	Essex Insurance Company; Underwriters at Lloyd's, London; Surplex Underwriters Inc.; V.B. Gifford & Company, Inc.; Gresham & Associates of R.I. Inc.; Gresham & Associates of Rhode Island, Inc.; Anchor Solutions Company, Inc.	\$ 100,000.00 \$ 100,000.00 \$ 35,000.00 \$ 7,500.00 \$ 10,000.00 \$ 10,000.00
Total		\$176,193,718.32

Since actual discovery has not been conducted with regard to each of the claims against the settling defendants, it is impossible to specifically identify either the quantity or quality of probative evidence supporting plaintiffs' claims, or the merit of the proffered defenses. Nevertheless, reasonable and reliable conclusions can be drawn from the various counts contained in Plaintiffs' Amended Complaint, as well as known and expected defenses to each particular claim, as well as the application of general precepts of law. A brief synopsis of each claim and the defenses thereto will be addressed in order:

Brian Butler; TVL Broadcasting, Inc.; TVL Broadcasting of Rhode Island, LLC;
STC Broadcasting, Inc.; LIN Television Corporation; and LIN T.V. Corp.
 (Broadcasting Defendants)

On the evening of this tragedy, Mr. Butler was acting as an investigative reporter for WPRI, Channel 12. His duties that evening included filming within the Station Night Club and documenting the standard operations of a night club. Mr. Butler's film has been personally reviewed and it reveals that he captured ordinary and routine activities by the Station Night Club and its staff prior to the concert. In fact, the video documents the events leading up to this tragedy, including the ignition of the fire. Mr. Butler continued to video the fire as it broke out and initial attempts of patrons attempting to flee from the dangerous, soon to be consuming, fire. Plaintiffs contended that Mr. Butler impeded the exit of the patrons from the club and, in fact, contributed to the slow down, back-up and log-jam of patrons attempting to leave through the main exit.¹⁴ There is some evidence available through an affiant which suggested that Mr. Butler's activities did, to some degree, impede her exit during a crucial point of the evening. The plaintiffs further provided evidence generated by computer reconstruction tending to suggest that

¹⁴ The remaining broadcasting defendants are sued vicariously for failure to supervise or appropriately control the actions of their subsidiaries and/or employees and for failure to enforce their own policies, procedures and protocols.

given the limited access available, Mr. Butler's actions did, in some respect, impede the ability of patrons to flee the building.

The broadcasting defendants suggested that the delay, if any, caused by Mr. Butler's actions could not be sufficiently quantified and, as a result, could not legally be postulated as a cause for this tragedy. In the alternative, even assuming *arguendo* that the actions of its employee caused some degree of delay, they argued it would have had a *de minimis*, incalculable affect upon these events, and at most, represented a condition on the evening of the fire, rather than a cause of any injuries or loss of life.

There is significant risk in the plaintiffs pursuit of this claim. Although there is evidence that the videographer may have hampered patrons retreat from the property, this will be a novel and potentially difficult position to establish. The best efforts of the plaintiffs' counsel may fail as it undoubtedly will be difficult to quantify, to any degree of acceptable certitude, that the behavior of the defendants' employee actually caused or resulted in specific or identifiable injuries to any plaintiff, individually or as a group. As a cause of action, the claim is susceptible to valid, compelling defenses as well as prejudgment motions. Accordingly, it is a claim that should, and was, properly compromised.

After mediations, plaintiffs' counsel accepted defendants' settlement of \$30 Million.

WHJY, Inc.; Capstar Radio Operating Company and Clear Channel Broadcasting, Inc.
(Broadcasting Defendants)

These defendants are sued in counts of negligence based upon WHJY, a radio station, having promoted the Great White concert on February 20, 2003. Employees of WHJY acted as master of ceremonies and it has been suggested that the evidence is sufficient to establish that this defendant either knew or should have known that the Great White band commonly employed

pyrotechnics during the course of its concert. The plaintiffs allege that employees of WHJY and ultimately its parent company Clear Channel, had sufficient authority to preclude pyrotechnic ignition at the site, and should have exercised sufficient control over the event to preclude the use of dangerous pyrotechnics.

The defendants denied that either Clear Channel or any employee of Clear Channel had sufficient control to have altered the nature and extent of Great White's planned performance, and did not have the authority to cancel the scheduled use of pyrotechnics. Moreover, the defendants noted what they considered to be controlling case law holding that the mere promotion of a dangerous event does not expose the promoter to liability absent extraordinary circumstances.

Here, the defense postured by these broadcasting defendants is substantial and viable. There is a distinct probability that if pursued, the applicable rule of law purported by case law would limit the responsibility of a third party promoter to control the height and/or conditions of an event. There is a distinct likelihood that if these defenses were aggressively pursued through discovery, they would receive favorable consideration by a court in a prejudgment motion, or by a jury by way of verdict. Notwithstanding the potential financial viability of the defendants, plaintiffs' claim against this defendant is uncertain.

After substantial negotiations, the plaintiffs accepted the final offer from Clear Channel and its subsidiaries and agents in the amount of \$22 Million.¹⁵

¹⁵ Unlike traditional settlements, the substantial contributions of the broadcasting defendants in this instance, as well as several other groupings of defendants, do not necessarily infer a lack of confidence or commitment to their legal defenses. Rather, their settlement offer undoubtedly reflects a judgment predicated on even the remote possibility that they are found minimally responsible as a joint tortfeasor. In that instance, potential magnitude of the collective verdict warrants that these defendants to consider resolution without further risk attendant to litigation.

American Foam Corporation and Aram DerManouelian

The American Foam Corporation and its agents were the sellers of polyurethane foam to the owners of the Station Night Club. Aram DerManouelian is the single shareholder of American Foam who passed away during the course of this litigation. The claims against these defendants sound in negligence and intentional torts. The negligence count was predicated on the theory that American Foam sold flammable polyurethane products through its agents knowing that it was to be improperly used as sound insulation in a place of public assembly. The intentional tort count against Mr. DerManouelian is that he instituted and maintained a policy which discouraged his employees from disclosing to American Foam's customers the fire risk of foam products of which American Foam was aware. In addition, it is claimed that Mr. DerManouelian intentionally omitted material facts and disclosures to the public under circumstances requiring disclosure of such facts.

It appears that American Foam had no substantial defense to at least the negligence claims and has tendered its \$5 Million liability insurance policy.

Plaintiffs' counsel conducted a due diligence review of the assets of American Foam Corporation and determined that an execution upon any expected judgment would effectively render the corporation bankrupt. In furtherance of identifying additional assets, pleadings were amended to substitute the DerManouelian estate. Counsel for the plaintiffs conducted an appraisal of the business assets of American Foam Corporation, including appraisal of real estate. It was eventually determined that the supplemental sum of \$1.3 Million from the DerManouelian estate was the most that could be realistically expected without causing dissolution proceedings.

Settlement considerations in this matter are driven simply by the availability of reachable assets. Plaintiffs' counsel has conducted due diligence which identified the ability of this defendant to contribute towards the final resolution. The settlement offer of \$6.3 Million from these defendants is therefore reasonable in light of their collective ability to pay.

General Foam Corporation; GFC Foam, LLC; PMC, Inc.; PMC Global, Inc.;
Foamex International Inc.; Foamex LP; FMXI, Inc.; FMXI, LLC;
Leggett & Platt, Incorporated; L&P Financial Services Co.;
Wm. T. Burnett & Co., Incorporated; Wm. T. Burnett Management, Inc.;
Wm. T. Burnett & Co.; Wm. T. Burnett Operating, LLP; and FFNC, Inc.
(Foam Manufacturing Defendants)

These defendants were potentially suppliers of polyurethane foam to the American Foam Corporation. Discovery and investigation disclosed that generally there were two possible manufacturers of the foam product sold to the owners of the Station Night Club. The General Foam group of corporations and the Leggett & Platt group of corporations. The causes of action against these defendants were failure to warn, relating specifically to the potential final application of the foam and its suitability, particularly as a noise-reducing product. It was further alleged that there were inadequate warnings concerning the foams exceptionally fast rate of burn and the lethal toxicity of its products of combustion. The plaintiffs also postured an argument of "product stewardship" which, if accepted, would impose a duty on manufacturers to shepherd their products through the chain of commerce to ensure that the end uses are appropriate with product capabilities. Shipping records and inventory management history for American Foam inferred that Leggett & Platt was the source of the Station Night Club product, but there existed the possibility that some or all of the foam was manufactured by General Foam. The defendants denied the validity of plaintiffs' product I.D. claims and in addition thereto asserted "bulk supplier" defenses. They, as with many of the defendants in this case, claim that an independent,

intervening cause (the use of legal pyrotechnics) interrupted any duty, foreseeability, and ultimately proximate cause.

Product identification defenses in this matter were substantial.¹⁶ The nature of polyurethane foam renders it as a generic product, essentially devoid of traditionally product identification information. Further, it is doubtful whether chemical analysis would be able to identify a signature of the product that would verify the manufacturer and/or supplier of the foam used in the Station Night Club.

Additionally, as this product is typically shipped in bulk sizes and thereafter reduced to useable quantities, standard concepts of “warnings” may not be applicable to these defendants. The plaintiffs would face distinct peril in the event of a summary judgment filing by these defendants. Issues involving product identification, as well as the capacity of manufacturers to effectively issue warnings to end users, could create substantial risk to the plaintiffs in the event these claims were pursued. The concept of “Product Stewardship,” while legally innovative, is a novel theory with little or no legal precedence and, hence, not a significant factor in weighing liability issues.

Both of these defendants and their associated entities were insured by a subsidiary of AIG. After multiple mediation sessions, AIG offered the sum of \$29,450,000.00 for release of all its insureds, in addition to contributions from William T. Burnett & Co., Inc. in the amount of \$300,000.00 and FFNC, Inc. in the amount of \$250,000.00, for a total of \$30 Million. This amount has been accepted by the plaintiffs in exchange for release of these defendants. Under the circumstances and in consideration of the recognized legal risk, the proposed settlement is in the best interest of the claimants and the minor children.

¹⁶ The plaintiffs’ could not avail themselves of the “Market Share Doctrine” to assist in their product identification dilemma, since it has been rejected in this jurisdiction. Gorman v. Abbott Laboratories, et al, 599 A.2d 1364 (1991).

Foamex related corporations did not contribute to any portion of this settlement. Documents of record verify that Foamex acquired the assets only of General Foam and did not assume any of General Foam's liabilities. Under those circumstances, there is little probability of exposure to Foamex.

Triton Realty Limited Partnership; Triton Realty, Inc.; Raymond J. Villanova; Framingham-150 FR Realty Limited Partnership; Seekonk-226 Limited Partnership; and Francis A. Villanova (Landlord-Related Defendants)

Generally, these defendants represent the owners of real estate and specifically the building in which the Station Night Club was operated. Triton Realty leased the premises to the Derderians, the owners of the Station Night Club with provisions that "the landlord would have no responsibility for maintaining the building." The lease documents, however, did contain representations that the building complied with building and fire code regulations as of the date the Derderians took possession.

It has been alleged that Raymond J. Villanova, the principal of Triton Realty and its alter-ego, engaged in post-fire transfers of assets in violation of Rhode Island General Laws § 9-1-2 to various entities, including Framingham-150 FR Realty Limited Partnership, Seekonk-226 Limited Partnership and Francis A. Villanova. The plaintiffs contend that those conveyances entailed the transfer of valuable commercial real estate for nominal consideration on or about June 13, 2003. They allege that such transfers were designed to delay, hinder or defraud creditors of Triton Realty, the owner of the Station Night Club building at the time of the tragedy.

As a result of these activities, the plaintiffs initiated independent actions within the Commonwealth of Massachusetts where much of the transferred property was located and in addition amended their claim in the instant federal action alleging fraudulent transfers.

The defendants argued the warranty ran only to the Derderians, and that it was expressly limited to the value of the real estate creating no duty to the general public. In summary, they alleged that the leased documents created no responsibility to maintain the premises and was not required to remove or correct defective conditions, even assuming that they existed.

Triton Realty had liability insurance in the amount of \$4 Million. It has agreed to supplement its maximum insurance by an additional \$1 Million, raising the settlement total to \$5 Million, which has been accepted by plaintiffs' counsel.

The settlement in this claim includes exhaustion of all insurance benefits, as well as an additional payment of Triton Realty from its own financial resources. Again, the defenses have meritorious aspects and create risk should this matter proceed to litigation. The total amount received responds to the available assets from both insurance as well as the individual defendant.

Town of West Warwick; Denis Larocque; Stephen Murray; Anthony Bettencourt;
Malcolm Moore; State of Rhode Island; and Irving Owens
(Municipal and Governmental Defendants)

Denis Larocque was at all times relevant the Fire Marshal for the Town of West Warwick and was also a duly appointed Deputy State Fire Marshal. It is alleged that in those capacities Mr. Larocque acted as the agent for both the Town of West Warwick as well as the State of Rhode Island. Stephen Murray was the Building Official for the Town of West Warwick, Anthony Bettencourt was employed as police officer by the Town of West Warwick and Malcolm Moore was the Finance Director of the Town of West Warwick. Plaintiffs' claims against Mr. Larocque were that he was responsible for inspecting the Station Night Club and failed to appropriately inspect by either ignoring or missing the presence of flammable polyurethane foam on the walls of the building. He also, according to the plaintiffs, illegally increased the capacity of the building by classifying the entire building as having "standing

room” capacity. Stephen Murray was sued for negligence in failing to enforce appropriate capacity limitations and exit requirements, and failing to discover and order remedied highly flammable interior finish within the building. Anthony Bettencourt, it is alleged, failed to monitor and enforce occupancy restrictions; permitted dangerous and unlawful overcrowding of the building; and failed to enforce Rhode Island law for the use of pyrotechnics. The Town and the State were named as principals of their agents, Larocque, Bettencourt, Murray and Moore.

Both entities, the Town of West Warwick and the State of Rhode Island, relied upon Rhode Island General Laws § 23-28.2-17 which immunized fire marshals from personal liability for their acts or omissions “when undertaking their activities in good faith.” They allege that Mr. Larocque’s activities were clearly within the ambit of this protectionary provision and that as a result the likelihood of a judgment against either the Town or the State was remote.

As a result of settlement efforts and discussions among the plaintiffs’ counsel, the Town and the State, the Town and State eventually approved respective independent settlement contributions of \$10 Million each. It should be noted that the Town’s contribution was expressly subject to obtaining access to settlement funds by way of bond indebtedness.

Given statutory protections as identified, as well as immunities pertaining to both the state and the municipality, the offer of \$20 Million was both fair and reasonable and clearly within the best interest of the plaintiffs to accept.

Anheuser-Busch, Incorporated; Anheuser-Busch Companies, Incorporated; Busch Entertainment Corporation; Busch Media Group, Inc; and McLaughlin & Moran, Inc.
(Beer Manufacturers and Distribution Defendants)

Anheuser-Busch conducts business in the State of Rhode Island through its distributor, McLaughlin & Moran. The evidence revealed that McLaughlin & Moran promoted the Great White concert on WHJY in conjunction with a Budweiser fresh beer promotion. In fact, the

evidence establishes that McLaughlin & Moran was financially responsible for the appearance fees of Mike Gonsalves of WHJY to emcee the Great White concert. It is claimed by way of negligence that these defendants promoted, endorsed and sponsored the Great White concert at the Station Night Club with knowledge that the band customarily used pyrotechnics; that they knew or should have known that the use of pyrotechnics in this facility was an illegal activity; that they failed to make inquiry sufficient to discover the dangers of Great White's performance; and promoted the event in a fashion which caused dangerous overcrowding of the premises and the eventual difficulty patrons experienced in trying to exit the building at the inception of and during the fire. These defendants, by way of motions for summary judgment, argued that there was a distinct lack of duty to the plaintiffs. Essentially, they claim that by promoting an event for commercial purposes, they were not obliged to inspect the property or building code violations. Moreover, they allege that they had no duty to inquire as to the nature of the Great White concert or the techniques they may have employed during the course of their performance.

The defenses presented by the beer manufacturers and distributors are substantial and, if pursued to trial, likely to prevail. There are significant questions as to the duty, if any, that the promoters owed to the patrons of this club, and whether they could be classified as an "insurer" of safety for the night club patrons. If pursued, the defendants most probably would have prevailed, and there is significant doubt as to whether this claim would have survived to trial. In light of the liability considerations, the proposed settlements of \$5 Million from Anheuser-Busch and \$16 Million from McLaughlin & Moran are both fair and reasonable. It is clearly within the plaintiffs' best interest, in light of substantial litigation risks, to settle this claim for the designated amounts.

High-Tech Special Effects, Inc.; Luna Tech, Inc.; Luna Tech Pyrotechnik GmbH;
and Luna Tech Euro GmbH
(Fireworks Defendants)

Luna Tech Pyrotechnik GmbH and Luna Tech Euro GmbH alleged to have manufactured pyrotechnics employed by the Great White band at the Station Night Club on February 20, 2003. High-Tech Special Effects, Inc. is alleged to have sold and transferred to Great White the pyrotechnics used at the Station Night Club. Counts against these defendants include negligence, strict liability and breach of warranty. Their negligence included allegations that they failed to use due care in the manufacture, sale or distribution of the pyrotechnics; failed to warn potential and actual users of the product and its potential hazards; failed to test the pyrotechnics before distributing and failure to educate users about hazards inherent in pyrotechnic products. Simply stated, the plaintiffs' theory of liability against these manufacturers was a failure to adequately warn that the sparks emanating from pyrotechnic products could initiate a fire when having contact with flammable objects.

The defendants argued that the hazard posed by the use of fireworks was clear, known and within common knowledge and understanding of its users. They allege that the pyrotechnics in question functioned exactly as designed and advertised, causing a 15 foot plume of sparks for at least 15 seconds.

In addition to the defenses alleged by these defendants, the plaintiffs concluded that this group of defendants was incapable of responding to a judgment in any amount greater than their collective liability insurance. The defendants offered the total amount available under their policy limits, that is, \$6 Million. Plaintiffs' counsel have accepted this offer.

Joseph Lafontaine d/b/a New England Custom Alarms
(Fire Alarm Defendants)

Joseph Lafontaine was engaged by Howard Julien, the operator of the Station Night Club, to install a fire alarm system at the building. This improvement was made after the Derderians entered into the lease with Triton Realty.

The plaintiffs' claim that the fire alarm system, as designed and installed, was inadequate. While it contained new and different sensors and was undoubtedly an improvement from the prior system, it did not include smoke sensors in the return HVAC ducts which could have been wired to shut down the air handlers if smoke was detected. Plaintiffs' contend that given the capacity of the building's air handlers, the Rhode Island Building Code required in-duct smoke detection at the time the new alarm system was installed. This failure, plaintiffs' alleged, resulted in significant injury and damage to the various plaintiffs.

The alarm installer, a sole proprietor, argued that in-duct smoke detection would not have altered the outcome of the tragedy due to the speed in which the fire raced across the foam-covered walls and ceilings throughout the building. In addition, it was evident from research conducted by the plaintiffs that this defendant would be unable to satisfy any judgment in excess of its \$1 Million liability policy and had no other reachable assets. Accordingly, the policy of \$1 Million was offered and accepted by the plaintiffs as being fair and reasonable.

Jack Russell; Jack Russell Touring, Inc.; Paul Woolnough; Manic Music Management, Inc.;
Knight Records, Inc.; Daniel Biechele; Mark Kendall; David Filice; and Eric Powers
(Band Defendants)

Jack Russell was the lead singer of the Great White band. Jack Russell Touring, Inc. employed Great White to perform at the Station Night Club. Paul Woolnough managed and controlled many aspects of Great White's performance, including its use of pyrotechnics and was the principal of Knight Records and Manic Music Management. Daniel Biechele was the tour

manager for Great White and the individual who ignited the pyrotechnics at the Station Night Club on February 20, 2003. Mark Kendall, David Filice and Eric Powers were members of the Great White band performing on that night.

Plaintiffs initiated claims against all of these defendants claiming negligence in violation of Rhode Island General Laws § 9-1-2. They allege that the defendants failed to use reasonable care and failed to obtain a valid certificate of competency from the State Fire Marshal for the possession and display of pyrotechnics; that they failed to obtain a permit for the use and display of pyrotechnics; and failed to comply with Rhode Island Fire Safety Code for Fireworks and Pyrotechnics. Daniel Biechele was sued under similar counts for negligently igniting pyrotechnics before a proximate audience and failing to use reasonable care and comply with Rhode Island laws which control and restrict use of pyrotechnic displays. Mark Kendall, David Filice and Eric Powers were sued for negligence under claims similar to that of Daniel Biechele and Jack Russell.

Settlement of this claim was driven by limitation of available assets. The insurer for the Great White band offered its \$1 Million policy which was eventually accepted by plaintiffs' counsel. In this regard, plaintiffs' counsel requested and received sworn personal financial statements from each band member indicating that they had no available assets upon which to satisfy any adverse judgment. The \$1 Million settlement offered was accepted by plaintiffs' counsel as reasonable under the circumstances.

Polar Industries, Inc.; Celotex Corp. and its successors in interest, Knight-Celotex Lisbon Falls LLC; Knight-Celotex LLC; Knight Industries, Inc.; Knight Industries, LLC and Knight Industries I, LLC; Home Depot U.S.A., Inc. and Home Depot
(Acoustic Defendants)

Howard Julien, a prior owner of the Station Night Club building, purchased PolarGuard polystyrene foam insulation blocks at Home Depot and installed the product in the ceiling space

above the drummer's alcove. This product was later covered over by the Derderians with Celotex Sound-Stop board. Plaintiffs' allege that PolarGuard insulation failed to contain adequate warnings that it could only be installed in a wall behind a suitable thermal barrier such as gypsum wallboard. They allege that Home Depot as a seller of the defectively labeled product was therefore strictly liable.

These defendants have been sued for negligence, strict liability and breach of warranty for failure to use due care in the manufacturing, sale or distribution of the insulation or board; failure to warn potential and actual users of the products and of its potential hazards, including but not limited to, its unsuitability for use as an exposed interior service without proper thermal barrier susceptible to exposure to heat or flame; and failure to warn.

The defendants in this aspect counter that their product bore specific warnings sufficient to any reasonably foreseeable hazard. They further allege that the contribution of this product to the actual fire was *de minimis*. \$5 Million was offered in response to all claims against Polar Industries and Home Depot, which has been accepted by plaintiffs' counsel.

Celotex Corporation manufactured a sound-deadening product called "Celotex Sound-Stop" which was installed by the Derderians in the drummer's alcove over the PolarGuard insulation blocks. Plaintiffs allege that Celotex failed to warn that it was an unsuitable substance for use as a thermal barrier to flammable foam insulations.

Celotex Corporation defended this claim, noting that its product bore specific warnings of its own flammability, and that in addition the use of the product undertaken by the Derderians was wholly unforeseeable and that while flammable, the minimal use of this product could have had no measurable impact upon the fire. Under the circumstances, settlement was appropriate as warning and causation defenses were substantial and created risk to the plaintiffs if pursued to

trial. Celotex Corporation offered \$1.5 Million as settlement, an amount which was accepted by the plaintiffs' counsel.

Jeffrey Derderian; Michael Derderian; and DERCO LLC
(Station Night Club Owners)

These defendants were the owners and operators of the Station Night Club on February 20, 2003. In addition, Jeffrey Derderian was an investigative reporter for WPRI Channel 12 and was filming an investigative piece on night club safety on that night.

All three defendants were sued for negligence and violation of Rhode Island General Laws § 9-1-2. Counts against these defendants included contributing to/allowing the Station Night Club to be overcrowded on February 20, 2003; installing and maintaining defective materials, including flammable foam and other interior finish within the night club building; failure to ensure compliance with Rhode Island law concerning the permitted use of pyrotechnics; failure to provide numerous fire prevention detection and suppression materials at the Station Night Club; and failure to provide proper means of egress and adequate and operable lighting to illuminate means of egress during the fire.

Settlement with these defendants was mandated by financial issues. The Derderians are insolvent. They and their corporation filed for bankruptcy during the pendency of plaintiffs' action and the only asset of the bankruptcy is the remainder of \$1 Million policy which had been self-reduced to an amount of \$813,218.32. This amount may be further reduced by competing claims, as well as the expenses of the bankruptcy action. However, with regard to this particular claim, there appears to be no other viable alternative then to accept the residual value of the policy as it appears to be the only viable asset from these defendants.

Sealed Air Corporation and Sealed Air Corporation (US)
(Polyethylene Foam Defendants)

Available evidence indicated that in 1996 the prior owner of the property, Howard Julien, affixed blocks of solid polyethylene foam to the three walls of the drummer's alcove. These walls were later covered by the Derderians with flammable polyurethane foam. It is uncontested that polyethylene foam has substantially more energy yield than an equivalent mass of polyurethane foam, and it was suggested by the plaintiffs that the polyethylene foam was a substantial contributor to the fire load.

Sealed Air Corporation was sued in negligence for failure to warn and for the production of a product which had an extremely high rate of ignition, energy yield and toxicity. While Sealed Air Corporation is the most likely producer of this near-generic product, the defendants claim that the evidence of record was woefully inadequate to identify the product as having been manufactured and/or distributed by Sealed Air.¹⁷

Product identification in this claim is tenuous. In addition, defendants' arguments relating to foreseeability have clear merit and could be expected to receive favorable consideration by either a court before trial or a jury in the event of trial. Finally, the claim predicated upon failure to warn on a product retrieved from refuse would be difficult to effectively pursue.

Sealed Air offered \$25 Million to resolve this claim and this offer has been accepted by the plaintiffs' counsel. This settlement is fair and may, in this case, actually represent an amount more than what the plaintiffs would actually recover if litigated to conclusion.

¹⁷ After conducting over 50 depositions to determine the source of this foam, it was finally concluded that H. Julien may have obtained this product from a dumpster, further frustrating plaintiffs' efforts to establish product identification and, ultimately, liability.

ABC Bus, Inc. d/b/a ABC Bus Leasing, Inc. and Superstar Services LLC
(Transportation Defendants)

These entities provided transportation to Great White's personnel and equipment to the Rhode Island concert site, including the transportation of more than 25 kilograms of explosive materials and fireworks. It is alleged that they did so negligently and in violation of Rhode Island General Laws § 9-1-2 and that the importation of pyrotechnics across state lines without a license was improper, illegal and was the proximate cause of the Station Night Club fire on February 20, 2003.

The defendants argued that the quantity of pyrotechnics did not fall within the ambit of the federal statute precluding such movement and that their contribution to causation was too remote to give rise to any legal duty.

The insurer eventually offered \$500,000.00 to settle this claim and was accepted by counsel for the plaintiffs. This settlement is fair and appropriately reflects the questionable liability claims against these defendants.

JBL Incorporated f/k/a James B. Lansing Sound, Incorporated
d/b/a JBL Professional

JBL Incorporated and its associated entities manufactured speakers/amplifiers that were used for the amplification of sound within the Station Night Club. Plaintiffs allege that the large speaker, intended for use in places of public assembly, contained substantial quantities of flammable polyurethane foam which posed a fire hazard in an assembly hall.¹⁸

It was anticipated that JBL Incorporated would defend on grounds of proximate cause, lack of duty, independent, intervening cause and *de minimis* contribution to the overall fuel load in the fire. All of the defenses in this claim have merit. It is doubtful that plaintiffs' claims

¹⁸ In fact, a review of the video in question shows the speaker igniting.

would have survived pretrial consideration by the court. The offered settlement of \$815,000.00 to settle the claim against JBL Incorporated and its entities is therefore fair and reasonable and has been accepted by plaintiffs' counsel.

Howard Julien; HJJ Productions Inc.; and La Villa Strangiato Inc.

Howard Julien was responsible for the purchase and installation of polystyrene foam insulation blocks above the drummer's alcove before the Derderians placed polyurethane foam over it. Mr. Julien was a pro se defendant with no insurance and no reachable assets.

This settlement was driven by financial considerations. Mr. Julien, by all scrutiny, appears to be judgment-proof. His \$3,000.00 offer of settlement was accepted by plaintiffs' counsel and under the circumstances considered to be reasonable.

Anchor Solutions Company, Inc.; Essex Insurance Company; V.B. Gifford & Company, Inc.;
Gresham & Associates of R.I., Inc.; Gresham & Associates of Rhode Island, Inc.;
High Caliber Inspections, Inc.; Multi-State Inspections, Inc.; Surplex Underwriters, Inc.;
and Underwriters at Lloyds, London
(Insurance Inspection Defendants)

These defendants represent insurers who, over a course of years prior to the February 20, 2003 fire, hired inspection companies to inspect the Station Night Club premises as part of their liability and fire insurance underwriting process. Typically, each policy stressed that such inspections were for underwriting purposes only, not intended to be used or relied upon by any owner, insured or tenant. None of the inspections identified the fire hazard or the presence of various foam products or the misuse of products for sound insulation purposes. Accordingly, each of these defendants was sued for having procured or performed faulty inspections.

These defendants collectively were able to successfully argue in motions to dismiss that the weight of legal authority did not create a general duty to the public while performing limited purpose inspections. Additionally, these defendants relied upon a section of the Rhode Island

General Laws conferring limited immunity in cases where insurance inspections were undertaken or performed for the benefit of the insurers.¹⁹ The defense positions were affirmed and the Court dismissed claims against them, holding that they owed no legal duty to the plaintiffs.

During the pendency of an appeal before the First Circuit Court of Appeals, these defendants settled for the total amount of \$262,500.00, which, under the circumstances, appeared to be fair and reasonable to the plaintiffs' counsel.

In summary, this settlement is driven by the Rhode Island General Assembly's amendment of Rhode Island General Laws § 10-6-7 and §10-6-8 which modifies the Rhode Island Contribution Among Tortfeasor Act in Mass Tort Cases. The elimination of the defendants' right to contribution based upon the determination of the proportionate degree of fault of each of the joint tortfeasors essentially facilitated good faith settlements between the parties. This legislative amendment provided the protocol which encouraged plaintiffs to resolve the claims and created, in effect, more risk for defendants who chose not to settle. Simply stated, the elimination of proportionate liability under the Joint Tortfeasor Act allowed, encouraged and indeed facilitated the settlement proposal which is currently before this Honorable Court." See generally Alexandria E. Baez, Joint Tortfeasors, Full Compensation, and the 1,800 Degree Crucible: Rekindling Rhode Island's Uniform Contribution Among Tortfeasors Act in the Aftermath of the Station Nightclub Fire, 12 Roger Williams U. L. Rev. 386.

From the plaintiffs' perspective, settlement is appropriate since in many cases their strongest liability claims are against defendants with limited assets. For example, even at early stages of litigation, it is clear that predominant liability may mean very little in terms of ultimate recovery in the event that judgments are rendered against American Foam Corp., Aram

¹⁹ See generally Rhode Island General Laws § 27-8-15.

DerManouelian, Triton Realty and its related entities, the firework defendants, the fire alarm defendants, the Derderians and Howard Julien. A favorable verdict, without a reasonable ability to reduce judgments to actual recovery would mean very little to any of the minor claimants involved in this case.

On the other hand, plaintiffs' counsel must contend with the fact that many of the solvent defendants who may have the capability of satisfying the magnitude of potential judgments that this litigation may elicit, also have significant defenses which may even preclude consideration by a jury. Typical of this sort of claim would be defendants WHJY and Anheuser-Busch. In order to successfully prosecute their claims against these two entities, it is clear that the plaintiffs would have to overcome substantial pre-trial motions and thereafter gamble that these types of defendants would be found, in some degree, responsible in a grouping of clearly more culpable, and more responsible parties. Even acknowledging the meritorious aspect of claims, the outcome of such a process is unclear at best, but to proceed to trial given the amount of this proposed settlement would not be in the best interest of the minors, or any claimant, for that matter. The risk is simply too great and the prospects of success too vague and uncertain.

From the defendants' perspective, they have chosen a process to eliminate a claim which, if valued by a jury, would be substantially greater than the proposed settlement amount. Pursuing the defense of these claims on the belief that pre-judgment relief will be granted by this Court by way of summary judgment is, at best, unpredictable. Given the standards which this Court must apply in any such proceeding, there remains a distinct possibility that even remote defendants may be parties to the actual jury trial. In that position, they must defend in the hope of receiving a verdict entirely in their favor, as even the most minimal judgment against them could result in their obligation to pay and satisfy the entire verdict. Given the potential verdict

value of this litigation, and recognizing the procedural legal dilemma confronted by defendants who are financially solvent but armed with significant defenses to the claim, there is nevertheless a strong basis to consider and effectuate settlement. These defendants, while avoiding the obvious dilemma created by trial, have nevertheless substantially limited their potential exposure and have, at the same time, offered amounts for settlement which are significant and meaningful in the global resolution of this litigation. Their actions are reasonably motivated by very clear legal considerations, and, in the end, provide substantial funds for distribution to the injured parties in this case.

The settlements, when viewed under this background, clearly have been effectuated in good faith under the statute, but also provide meaningful financial awards for the minors as well as the injured parties, without the necessity of the risk attendant to litigation. While there is little doubt that a verdict value of these claims would exceed the gross settlement figures, there is significant doubt that any such award would be collectable. Additionally, the costs, expenses, risk and delay associated with a trial on the merits of this case are simply not in the best interest of the minor children. The proposed settlement is fair and adequate given the options and alternatives available.

VI. COSTS

There are three classifications of costs and expenses incurred in the prosecution of plaintiffs' claims: Estimated PSC Case Costs; Estimated Overall Costs; and Individual Case Costs.

A.
ESTIMATED PSC CASE COSTS

The first category represents costs incurred and estimated by the Station Fire Plaintiffs' Steering Committee. This Committee (hereinafter "PSC") is comprised of a grouping of 8 plaintiffs' attorneys' offices who have marshaled resources and shared expenses and financial responsibilities associated with the prosecution of their respective clients' claims.²⁰ This expense category has been estimated at \$1,450,000.00 and is identified as "Estimated PSC Case Costs on PSC settlement sheets.

Estimated PSC Case Costs are recouped from the clients as follows:

Each individual gross settlement is reduced to a percentage of the PSC Plaintiffs' Portion of Total Settlement (\$167,472,737.00),²¹ and that percentage is applied against the Estimated PSC Case Costs.

In this manner, each beneficiary assumes his/her respective share of costs based on the amount of their individual recovery. Although estimated at \$1,450,000.00, the attorneys have, as of this date, paid and subsidized the sum of \$1,217,000.00 in the prosecution of their clients' claims. A specific itemization of costs incurred to date, in summary form, is attached hereto, as well as a detailed itemization by individual account for all expenses. See Exhibit I and Exhibit J.

As the total settlement for all plaintiffs is in the amount of \$176,193,718.32, the present estimate of PSC costs represents less than 1% of the total settlement. A more detailed examination of the PSC expenditures to date reflects that they were necessary and reasonable and of the sort which are ordinarily incurred in complex, mass tort litigation. Indeed, the expenses associated with the warehouse costs were justified in that the preservation of critical pieces of

²⁰ The members of the PSC include: Stephen E. Breggia, Esq., Patrick T. Jones, Esq., Eva-Marie Mancuso, Esq., Mark S. Mandell, Esq., Steven A. Minicucci, Esq., Charles N. Redihan, Esq., Michael A. St. Pierre, Esq. and Max Wistow, Esq. The PSC attorneys represent 90% of the total claimants in these cases. Their clients stand to receive \$167,472,737.00, or 95% of the total gross settlement.

foam products assisted plaintiffs' counsel in the identification of manufacturing defendants who ultimately contributed towards the global resolution of this litigation. In summary, the costs appear to be appropriate and reasonable, consistent with the magnitude of the litigation, and necessary for the prosecution and defense of this litigation.

B.
ESTIMATED OVERALL CASE COSTS

This is a category of costs that all plaintiffs' attorneys, PSC as well as Non-PSC,²² and their clients share, relative to their individual amounts of settlement. This category represents the remaining portion of the estimated, future costs that are expected, but not yet expended, for invoices and expenses necessary to bring this case to conclusion. These costs have been estimated in the amount of \$350,000.00. The costs include, but are not limited to, fees yet to be assessed and approved by this Honorable Court for Paul Finn, Administrator of the Station Settlement Trust Fund, myself as Special Master, and any costs associated with the services of Special Master Francis McGovern and/or Jeffrey Dahl, the Neural Verification Expert.

These fees are recouped in a manner similar to the "Estimated PSC Case Costs." On the settlement sheet, this item appears under the heading "Reduction to Gross Recovery" and nominated as "Share of 'Estimated Overall Case Costs.'" Every individual settlement is reduced to a percentage of the "Total Settlement" of \$176,193,718.82, and that percentage is applied against the "Estimated Overall Case Costs" of \$350,000.00 to determine the amount of the deduction. This deduction is global in its application and represents each claimant's percentage share of the \$350,000.00 estimated expense.

²¹ This is identified as "Claimant's gross recovery as percentage of "PSC Plaintiffs' Portion of Total Settlement" on the settlement sheets.

²² The 4 attorneys who comprise the Non-PSC category are: Brian R. Cunha, Esq., Ralph J. Monaco, Esq., Robert I. Reardon, Jr., Esq. and Ronald J. Resmini, Esq.

An examination of these costs reflects that they were associated with the prosecution of these claims and were necessary in the successful resolution of this litigation.

C.
INDIVIDUAL CASE COSTS

The third category of costs represents those costs incurred by all attorneys and represent ordinary expenses associated with representation of the client. These costs apply to each claimant, are assessed in all cases and are identified as “Individual Case Costs” on the settlement sheets. Typical of this category is an exemplar, Case No. 1. See Exhibit G. This estate incurred costs in the amount of \$436.50. These costs are itemized on the addendum to the settlement sheet and reflect the specific source of each expense, such as copies of marriage certificate, birth certificates, autopsy report fees, postage, etc. In Non-PSC cases, the Individual Case Costs may include fees and retainer expenses for experts.

In summary, a review of each claim reflects that the total costs, regardless of whether they are incurred by the PSC or Non-PSC attorneys, approximate 1% of the total gross settlement value. Under the circumstances of these cases, given the complexity of the claims, the necessity of preservation of evidence, the need for technical and scientific assistance, the expenses are found to be reasonable, fair and necessarily incurred in the prosecution of each claim. The Individual Case Costs incurred by the individual plaintiffs’ attorneys, which include the mundane administrative costs associated with all litigation files (postage, copying charges, medical records’ fees, etc.) and are consistent with those typically expended in the representation of tort claims. Overall, the costs appear to be appropriate, consistent with the magnitude of this mass tort litigation, and wholly necessary to support the reasonable prosecution of these claims.

VII.
ATTORNEYS' FEES

In addition to deductions for costs and expenses, each minor plaintiff, as a derivative claimant in a death case, is obligated to satisfy attorneys' fees in the amount 33.33% of their gross settlement. This reduction is consistent with all claimants.²³ Aside from consistency of application, the rate of 33.33% (1/3) of the total settlement for attorneys' fees is standard and reasonable within the legal profession.

These cases, however, were not typical of the average tort claim. At the onset, it was evident that each of these cases would, and in fact did, require substantial financial commitment for the investigation of the claims, the retention of numerous experts and the assistance of settlement experts and facilitators, a daunting undertaking for any grouping of attorneys. The complexity of this litigation was perhaps unparalleled within this jurisdiction. It required the administration and management of claims against 96 defendants by numerous plaintiff law firms, representing 306 potential claimants.

A review of the efforts exerted reflects that plaintiffs' counsel expended considerable legal efforts in reaching the presently pending settlement proposal. Plaintiffs' counsel initiated and conducted over 80 depositions, several of which were out-of-state; were required to defend at least 30 motions to dismiss and prepare and respond to over 30 motions for summary judgment; and filed detailed prayers for discovery pursuant to Rule 56(f)(2)(2) of the Federal Court Rules of Civil Procedure.

In addition, experts were retained in numerous disciplines ranging from fire science to polymer chemistry and human physiology. Extensive product identification and discovery was

²³ Please note, however, that as previously identified in personal injury cases, minor plaintiffs receive 5% of the net settlement. Accordingly, attorneys' fees, in every instance, have been reviewed as they have been applied against the primary parent(s)' claim.

conducted to determine the appropriate defendants for pleading purposes. Plaintiffs' counsel were additionally required to prosecute ancillary litigation in other jurisdictions, including Providence Superior Court; the Commonwealth of Massachusetts (claiming fraudulent transfer matters); Probate Court (following the death of defendant Aram DerManouelian); and bankruptcy proceedings in Delaware (regarding defendant Foamex). Plaintiffs' counsel also expended efforts in assisting and encouraging the amendment of Rhode Island's Uniform Contribution Among Tortfeasors Act, as amended (R.I.G.L. § 10-6-1 et seq.). The ultimate result obtained for and on behalf of each claimant is a testament, in part, to the extraordinary and comprehensive legal efforts exerted by the plaintiffs' bar.

In conclusion, the contingency fees are consistent with the practice within the legal profession, and, most importantly, the efforts expended by plaintiffs' counsel resulted in the presently pending settlement proposal which is fair, just and clearly within the best interest of each minor plaintiff. I therefore recommend that the attorneys' fees, certainly with regard to the minors, be approved and accepted by this Honorable Court.

VIII. CONCLUSION

An examination of the proposed settlement under Local Rule of Civil Procedure 39.4 (c) (1) and (6), clearly and expressly establishes that this settlement is in the best interest of the minor children. It allows each child to receive a derivative share from their injured or deceased parent(s). The amount received responds proportionately to the settlement matrix which this Honorable Court has previously found to be fair and equitable. Moreover, the actual financial assignments to each child correspond appropriately to known litigation values.

Examined from a liability perspective, this settlement appropriately insulates minors from two potential adverse results. First, would be a trial result which would exclude verdicts from

peripheral defendants who would otherwise be able to satisfy the magnitude of the expected judgment. The second risk would be a verdict that would exclusively find liability on clearly culpable entities unable to financially address the damage award. In either instance, minor children would be left without the security of meaningful financial resolution. Compounding these concerns are the additional and substantial expected costs associated with mass tort litigation, as well as the delay which would be engendered by trial and/or any appeals.

As identified in the liability section of this report, the various settlements respond to reasonable risk assessments and allow for a resolution that, while not perfect, provides sufficient and meaningful assets to compensate these unfortunate victims. The alternative, from a minor's perspective, is fraught with uncertainties, additional expenses and indeterminate delay. Trial, under these circumstances, would be contrary to the best interest of the minors, and unlikely to provide additional, meaningful relief.

Reductions from the minor's settlement values have been reviewed, the costs are found to be fair and reasonable, and fees exacted from each claim are equitable and consistent with similar fees assessed within this professional community.

I therefore recommend that this Honorable Court consider approving the settlement as it pertains to the minor children, said settlement being in the best interest of each minor child.

Respectfully submitted,

/s/ William A. Poore
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CERTIFICATION

I hereby certify that an exact copy of the within document was electronically mailed to the Electronic Case Filing system of the United States District Court for its distribution to all counsel of record on this 23rd day of November, 2009.

/s/ William A. Poore
William A. Poore, Esq. (#1436)

APPENDIX OF EXHIBITS

Exhibit A	.....	Order of Reference to Special Master Poore dated June 24, 2009
Exhibit B	.....	McGovern Plan of Distribution
Exhibit C	.....	Order Granting Three Motions dated March 5, 2009
Exhibit D	.....	Memorandum of Clarification With Respect to: Order of Reference to Special Master William Poore, Esq. dated August 14, 2009
Exhibit E	.....	Form distribution settlement sheets
Exhibit F	.....	Correspondence forwarded to the parent/guardian of every minor claimant
Exhibit G	.....	Death claim settlement sheets (Case Nos. 1-111)
Exhibit H	.....	Personal injury claim settlement sheets (Case Nos. 112-329)
Exhibit I	.....	The Station Fire PSC Account, Custom Summary Report
Exhibit J	.....	The Station Fire PSC Account, Transaction Detail by Account